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FEDERAL COMMUNICATIONS COMMISSION
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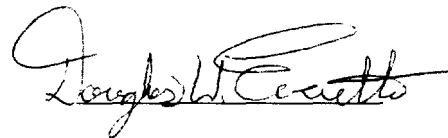
Re: GN Docket No. 01-74 /
In the Matter of Reallocation and Service Rules for the 698-746 Mhz
Spectrum Band (Television Channels 52-59)
Notice of Proposed Rulemaking

Enclosed please find a 3.5-inch diskette containing an electronic copy of the comments of
The Coalition for Rural Opportunities in Wireless ("CROW").

As required by the FCC's Notice that subsequently appeared in the *Federal Register*, please
find one properly labeled diskette formatted in "read only" format containing an electronic copy of
The Coalition for Rural Opportunities in Wireless ("CROW").

Please call us if you have any questions.

Respectfully submitted,



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Before the
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Reallocation and Service Rules for the 698-746 MHz
Spectrum Band (Television Channels 52-59)

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GN Docket No. 01-74

COMMENTS OF
THE COALITION FOR RURAL OPPORTUNITIES IN WIRELESS

The Coalition For Rural Opportunities In Wireless ("CROW") hereby submits its comments with respect to the Commission's Notice Of Proposed Rule Making ("NPRM"), FCC 01-91, released March 28, 2001, in this proceeding. CROW is comprised of rural telephone companies and rural telephone company affiliates who want to receive and take advantage of the opportunities for rural telephone company participation in the provision of spectrum-based services that were promised by Sections 309(j)(4)(C) and (D) of the Communications Act. These rural telephone entities include Buffalo Valley Telephone Company; Cameron Telephone Company; The Conestoga Telephone and Telegraph Company; Consolidated Telcom; Minnesota Southern Wireless Company d/b/a HickoryTech Wireless; Nucla-Naturita Telephone Company; Phillips County Telephone Company; Polar Communications Mutual Aid Corporation; Southern Illinois RSA Partnership d/b/a First Cellular of Southern Illinois; 3 Rivers Telephone Cooperative, Inc.; and United Telephone Association, Inc.

CROW believes that the large size and predominantly urban nature of the geographic licenses allocated in previous Commission spectrum auctions has precluded effective participation in auctions by rural telephone companies and other small businesses, and has resulted in very minimal and inadequate construction of wireless facilities in rural areas. CROW applauds the Commission's indication in Section III.B.1.c of the NPRM that it is willing to

consider ways to cure this problem. CROW strongly urges the Commission to do so by dividing the Lower 700 MHz Band into two 24 MHz frequency blocks, and by assigning a geographic license for each block to each of the 360 Metropolitan Statistical Areas (MSAs) and 428 Rural Service Areas (RSAs) that were used to license the Cellular Radiotelephone Service. While the MSA licenses will satisfy the needs of the national and regional carriers that have been focusing their wireless efforts on urban and suburban markets, the smaller RSA licenses will encourage both the build-out of digital wireless facilities in rural areas and the participation by rural telephone companies and other small businesses in the wireless industry.

Applicable Statutory Goals And Requirements

In 1993 when Congress gave the Commission authority to conduct spectrum auctions, many legislators were concerned that competitive bidding would result in much greater concentration of wireless licenses and facilities in the hands of large and deep-pocketed entities, and in the more populous and financially lucrative urban areas. H.R. Report 103-111, 103d Congress, 1st Session, at pp. 254-55. Consequently, Congress granted competitive bidding authority to the Commission only on the condition that the auction methodologies to be implemented would include safeguards to protect the public interest in the use of the spectrum, and to advance certain key objectives. 47 U.S.C. Sec. 309(j)(3). One key Congressional objective was "promoting economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women." 47 U.S.C. Sec. 309(j)(3)(B).

To further this objective, Congress expressly required the Commission to adopt and implement specific spectrum auction regulations that would:

1. "consistent with the public interest, convenience and necessity, the purposes of this Act, and the characteristics of the proposed service, prescribe area designations and bandwidth assignments that promote (i) an equitable distribution of licenses and services among geographic areas, (ii) economic opportunity for a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women, and (iii) investment in and rapid development of new technologies and services," 47 U.S.C. Sec. 309(j)(4)(C); and
2. "ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services, and for such purposes, consider the use of tax certificates, bidding preferences, and other procedures." 47 U.S.C. Sec. 309(j)(4)(D).

These statutory provisions require the Commission to monitor and adjust its spectrum auction procedures to ensure that wireless facilities are being constructed and operated in rural areas, and that rural telephone companies and other small businesses are being afforded fair opportunities to acquire and develop an equitable share of the auctioned spectrum. To a large extent, these two concerns are amenable to a common solution, for rural telephone companies have a long and proven record of bringing high quality, state-of-the-art telecommunications facilities and services to their rural customers.

**The Promise Of Rural Wireless Service
Is Being Impeded By Large, Urban-Dominated Geographic Licenses**

Quality wireless telecommunications services (and especially digital wireless services) have not yet become available in major portions of Rural America. With the exception of roaming corridors along rural stretches of interstate and other major highways, wireless has been primarily an urban and suburban service.

To a major extent, this situation has resulted from the large size of the geographic license areas employed by the Commission in previous spectrum auctions. These large license areas have been dominated by one or more urban areas, and generally have had population, demographic and economic characteristics beyond the scale normally encountered by rural

telephone companies. The auctioned license areas have been too expensive for rural telephone companies and consortia to acquire during the bidding, and too costly and unwieldy for them to construct and operate thereafter. As a result, most wireless licenses have been acquired at auction or thereafter by large national and regional carriers with the deep pockets necessary to bid and pay high prices. These large carriers then have focused their construction and service efforts in the more populous and lucrative urban and suburban portions of the license areas. In fact, these carriers normally have been able to satisfy their full build-out requirement without ever reaching the rural portions of their license areas.

Large geographic license areas may simplify auction administration, but they preclude effective participation in spectrum auctions and in the wireless industry by rural telephone companies and other small businesses. For example, the geographic wireless licenses for the six Regional Economic Area Groupings (REAGs), the 52 Major Economic Areas (MEAs) and the 51 Major Trading Areas (MTAs) were designed to be acquired, developed and operated by national and regional carriers with deep pockets and large staffs. The few small entities that participated in these auctions were usually outbid and forced out at an early stage by the large players. And even in the rare instance where a rural telephone company acquired a large license in an auction (e.g., Poka Lambro Telephone Cooperative's acquisition of a Spokane-Billings MTA license in the A & B Block Broadband PCS auction), it appears that a number of considerations (including the large size and population of the license area) convinced it to sell the license at an early date rather than develop it.

Similar considerations apply to "mid-sized" but still very large and urbanized geographic license areas such as the 172 Economic Areas (EAs) and the 493 Basic Trading Areas (BTAs). The "smaller" of these, the BTA license areas, are still dominated by one or more cities and their suburbs, and still encompass large populations (their mean population exceeds 500,000). They

also were designed to be acquired, constructed and operated by national and regional carriers, and most have in fact been acquired at or after auction by such entities. Most small entities that participated in BTA auctions were outbid by larger players. Others won a few licenses at auction, but subsequently encountered major difficulties in obtaining the financing necessary to start or complete construction of their systems. Many of the latter licenses have been sold to larger carriers, or are in the process of being sold as 5-year build-out deadlines approach.

The Commission's "entrepreneur" and "designated entity" programs have yet not been successful in assisting bona fide small businesses to enter and prosper in the wireless business. The fact of the matter is that the geographic area licenses auctioned by the Commission have been too large, too populous, and too urbanized for existing rural telephone companies and other bona fide small business to acquire and develop, whether or not they qualify for bid credits. And, because the license areas are so large, entrepreneur and designated entity auctions have been dominated increasingly by start-ups designed on paper to meet the letter of the Commission's eligibility requirements and attribution rules, but able to access resources far in excess of those available to existing small businesses. In the most recent Broadband PCS auction, entities claiming less than \$125 million in attributable annual gross revenues and less than \$500 million in attributable total assets bid and paid *billions* of dollars to win the lion's share of the restricted entrepreneur licenses offered.

The Commission's partitioning and disaggregation rules have also proven largely unsuccessful to date in assisting rural telephone companies and other small businesses to enter the wireless business. The problem here is that the national and regional carriers that control the licenses for most of the outstanding wireless spectrum are not willing to spend the time and effort necessary to negotiate and implement partition arrangements on the scale desired by rural telephone companies. Put simply, most national and regional carriers are not willing to negotiate

partitioning and similar arrangements covering areas having significantly fewer than, e.g., 1,000,000 pops, while most rural telephone companies want to partition much smaller areas that will serve their existing wireline calling areas and the immediately surrounding areas (which generally encompass much fewer than 100,000 pops). While several partitions have occurred, most requests by rural telephone companies to large carriers for partitions have met with disinterest or rejection because the small scale of the potential transaction was deemed not to justify expenditure of the necessary time and resources.

Because rural telephone companies and consortia have not been able to participate effectively in the Commission's spectrum auctions, major portions of Rural America do not yet have quality digital wireless services. For the past century, the only entities that have demonstrated a sustained interest in making the investments necessary to provide quality telecommunications services to rural areas have been the rural telephone companies. On the wireline side, they have a long and impressive record of bringing digital switching, fiber optic facilities, equal access, and other state-of-the-art technologies and services to their rural exchanges long before many of their larger counterparts. During the last decade, the Commission's study area waiver records show that rural telephone companies have acquired and upgraded hundreds of rural exchanges long neglected by larger carriers. On the wireless side, several rural telephone companies operate analog cellular systems in RSAs in or near their exchange areas. However, their inability to participate in the Commission's spectrum auctions has heretofore precluded most rural telephone companies from offering digital wireless services such as PCS.

With the exception of certain roaming corridors along major highways connecting cities, the large national and regional carriers are providing little wireless service in Rural America. It is perfectly reasonable (and probably required by stockholders and lenders) for a large carrier

that pays big dollars to acquire a REAG, MEA, MTA, EA or BTA license in a spectrum auction to build-out and serve the heavily populated and high revenue potential urban and suburban core areas first. In fact, the Commission's 5-year and 10-year build-out requirements strongly encourage construction in the most populous core areas. As a result, digital wireless services like PCS are not yet available in much of Rural America that lies outside inter-city roaming corridors, and are not likely to become available in many rural areas in the foreseeable future.

In sum, the regulations and procedures implemented by the Commission for previous auctions have not yet enabled it to meet the Section 309(j)(4)(C) and (D) requirements for equitable distribution of wireless licenses and services to rural areas and for reasonable opportunities for rural telephone companies to participate in spectrum-based services.

**The Commission Should Allocate
Smaller Geographic Area Licenses In The Lower 700 MHz Band**

CROW believes that the Commission can take a major step toward solving these problems by licensing the Lower 700 MHz Band in the smaller geographic license areas defined by the 306 MSAs and 428 RSAs.

First, separate RSA licenses will ensure that digital wireless services are built-out and furnished in rural areas. Whereas the rural counties comprising the RSAs constitute the outlying, sparse populated fringe areas that generally have been left unserved or underserved by REAG, MEA, MTA, EA or BTA licensees, they will be required to be built-out and served by RSA licensees. In other words, smaller RSA licenses will ensure that rural areas will be acquired by the entities that place the highest value upon serving them, rather than being largely unwanted and unserved outlying areas of REAG, MEA, MTA, EA and BTA licenses.

Second, RSA licenses have areas, populations, demographics and economics that are compatible with the resources and operating experience of rural telephone companies and other small businesses. They correspond much more closely than REAG, MEA, MTA, EA and BTA

licenses to the nature and size of the areas served by rural telephone companies and groups of neighboring rural telephone companies. In other words, rural telephone companies and consortia can afford to buy, construct and operate RSA licenses, and are willing to do so to offer digital wireless service options to their existing customers as well as residents of neighboring areas. This is not mere speculation, for rural telephone companies and consortia have a proven record of building-out and operating RSA licenses in the analog Cellular Radiotelephone Service.

Third, the Lower 700 MHz Block is an ideal spectrum band for introducing digital wireless services into Rural America. Its propagation characteristics will allow much larger geographic areas to be served from each antenna site than 2 GHz and other high-band systems, and therefore will be much more economical to implement in rural areas. The Lower 700 MHz Block is compatible with the 800 MHz analog cellular frequencies operated by rural telephone companies in various RSAs, and can be readily combined with such existing frequencies when they are upgraded and converted to furnish "3G" and other digital wireless services. Appendix B to the NPRM appears to indicate that the lower 700 MHz Block is presently unused or sparsely used in major portions of the rural states west of the Mississippi River, so that service may be able to be implemented in many rural areas prior to the end of the Digital Television transition period. Finally, because the only other 3G spectrum band with propagation characteristics similar to cellular (TV Channels 60 to 69) has been allocated as six Economic Area Group (EAG) licenses, the Lower 700 MHz Band constitutes the only remaining source of potential auction licenses on which rural cellular licensees can reasonably hope to bid.

Fourth, the digital wireless services (e.g., wireless broadband service and wireless local loop service) contemplated to be provided on the Lower 700 MHz Block are localized services that can be furnished effectively and profitably by small carriers lacking large coverage footprints and nationwide (or worldwide) roaming arrangements. Unlike wireless voice services

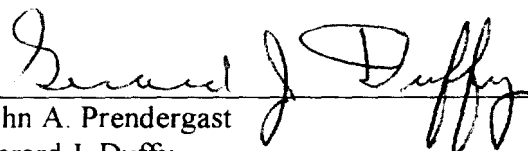
that increasingly require a regional or national presence, wireless broadband and wireless local loop can be provided economically as "niche" services in rural areas to residents whose mobility needs are predominately limited to the RSA.

Finally, the Treasury will not experience a loss of significant potential auction revenue. Given that participants in prior auctions have competed and bid primarily for the urban portions of licenses, the 306 MSA licenses should bring in revenues comparable to those raised in prior auctions for the larger REAG, MEA, MTA, EA and BTA licenses. In fact, it is quite possible that the Treasury will realize increased auction revenues because the 428 RSA license areas will be made available, for the first time, to rural telephone companies and other small business that value them per se, and are willing to pay a fair price for them alone.

Conclusion

Therefore, CROW urges the Commission to divide the Lower 700 MHz Band into two separate 24 MHz Blocks, and to license these blocks in the smaller geographic license areas defined by the 306 MSAs and 428 RSAs.

Respectfully submitted,
**COALITION FOR RURAL OPPORTUNITIES IN
WIRELESS**

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